

Remarks

The Office Action mailed November 22, 2006, has been carefully reviewed and the following remarks have been made in consequence thereof.

Claims 1-16 and 18-20 are now pending in this application. Claim 11 is allowed. Claims 1-4, 7, 12, and 14 stand rejected. Claims 5, 6, 8-10, 13, 15, 16, and 18-20 stand objected to. Claim 17 has been cancelled.

The rejection of Claims 1, 3, 4, 7, 12, and 14 under 35 U.S.C. § 102(b) as being anticipated by Hirschmann (Non-Paten Literature) ("Hirschmann") is respectfully traversed.

Under 35 U.S.C. § 102(b),

A person shall be entitled to a patent unless . . . the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States.

Applicants respectfully submit that Hirschmann is not prior art under 35 U.S.C. § 102(b) because there is no evidence Hirschmann was patented, described in a printed publication, in public use, or on sale more than one year prior to Applicants' filing date of October 29, 2001. In fact, no date of patenting, description in a printed publication, public use, or sale is established for Hirschmann. The Office Action appears to assert in the Notice of References Cited that Hirschmann was published on July 29, 1997. Applicants respectfully traverse this assertion. At best, the Hirschmann document states that the website "hirschmann.com" has been online since July 29, 1997. Although the hirschmann website indicates that it was established July 29, 1997, there is no indication that the document recited by the Office Action as prior art was downloaded onto the hisrschmann website on July 29, 1997. In fact, the date on the printing of the article appears to be November 15, 2006, and therefore Applicants believe that should be the date of the printed publication. Accordingly, Applicants submit that there is no evidence that the document cited in the Office Action was published prior to November 15, 2006, much less prior to October 29, 2001, and, as such, the Office Action does not establish that Hirschmann is prior art under section 102.

Because no date is established for Hirschmann, Applicants submit that Claims 1, 3, 4, 7, 12, and 14 are patentable over Hirschmann.

For at least the reasons set forth above, Applicants respectfully request that the Section 102 rejection of Claims 1, 3, 4, 7, 12, and 14 be withdrawn.

The rejection of Claim 2 under 35 U.S.C. § 103(a) as being unpatentable over Hirschmann in view of 3COM SuperStack II Switch 9300 (Non-patent literature) ("3COM") is respectfully traversed.

Applicants respectfully submit that the Section 103 rejection of the presently pending claims is not a proper rejection. As described above, Hirschman is not prior art under section 102, and, as such, Claims 1, 3, 4, 7, 12, and 14 are allowable over Hirschmann. Applicants further submit that Claim 2 is allowable over 3COM.

Specifically, 3COM describes the 3COM SuperStack II Switch 9300 and how to install and use it. The Switch 9300 units are stacked on a table top, free standing stack, or in a rack.

Claim 2 depends from Claim 1, which recites an Ethernet switch for use in a non-office environment, the Ethernet switch comprising "a plurality of ports, said switch configured to be operable within a temperature range of at least between approximately 0° C and approximately 60° C, said switch further configured to be operable within a non-condensing humidity range of at least between approximately 10% and approximately 95%, said switch further configured to support at least one of a Virtual Local Area Network (VLAN), a Quality of Service (QoS), a Remote Monitoring (RMON), and a Spanning Tree, wherein said switch configures the VLAN by operating within the temperature range, and wherein said switch is further configured to transfer data between a plurality of devices."

3COM does not describe nor suggest an Ethernet switch for use in a non-office environment as recited in Claim 1. Specifically, 3COM does not describe nor suggest a switch configured to support at least one of a VLAN, a QoS, a RMON, and a Spanning Tree,

where the switch configures the VLAN by operating within the temperature range. Rather, 3COM describes Switch 9300 units stacked on a table top, free standing stack, or in a rack. Accordingly, 3COM does not describe nor suggest a switch that configures the VLAN by operating within the temperature range. For the reasons set forth above, Claim 1 is submitted to be patentable over 3COM.

When the recitations of Claim 2 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claim 2 likewise is patentable over 3COM.

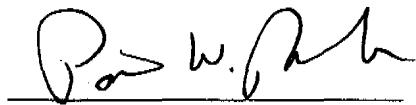
For at least the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claim 2 be withdrawn.

Claim 11 is allowed.

Claims 5, 6, 8-10, 13, 15, 16, and 18-20 have been indicated to contain allowable subject matter if rewritten to include all of the limitations of the respective base claims and any respective intervening claims. Applicants thank the Examiner for the indication of allowable subject matter in Claims 5, 6, 8-10, 13, 15, 16, and 18-20.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



Patrick W. Rasche
Registration No. 37,916
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070